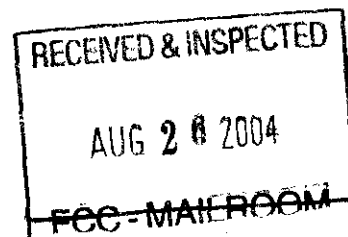


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Before the  
Federal Communications Commission  
Washington, D.C. 20554



In the Matter of	)	
	)	
Revision of the Commission's Rules to	)	CC Docket No. 94-102
Ensure Compatibility With Enhanced 911	)	
Emergency Calling Systems	)	
	)	
Amendment of Parts 2 and 25 to Implement the	)	IB Docket No. <u>99-67</u>
Global Mobile Personal Communications by	)	
Satellite (GMPCS) Memorandum of	)	
Understanding and Arrangements; Petition of the	)	
National Telecommunications and Information	)	
Administration to Amend Part 25 of the	)	
Commission's Rules to Establish Emissions	)	
Limits for Mobile and Portable Earth Stations	)	
Operating in the 1610-1660.5 MHz Band	)	

## SECOND REPORT AND ORDER

**Adopted:** August 18, 2004

**Released:** August 25, 2004

By the Commission:

### I. INTRODUCTION

1. In this Second Report and Order, we adopt recordkeeping and reporting requirements in connection with implementation of the mobile satellite service ("MSS") 911 emergency call center rule.<sup>1</sup> The Commission adopted the call center rule in 2003<sup>2</sup> and stated that it would become effective 12 months after Federal Register publication, which occurred on February 11, 2004.<sup>3</sup> The new reporting requirements that we adopt today will ensure that MSS carriers deploy their emergency call centers by February 11, 2005, in a timely manner and that all stakeholders (including the Commission, service providers, public safety organizations, and customers) are informed during the implementation and operation of these centers. Reliable communications systems for public safety and Homeland Security are core goals of the Commission in serving the public interest. This decision represents a balanced approach, which takes into consideration the expectations of consumers and the need to strengthen Americans' ability to access public safety entities in times of crisis, including for Homeland Security purposes.

<sup>1</sup> See 47 C.F.R. § 25.284.

<sup>2</sup> Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, IB Docket No. 99-67, *Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 25340 (2003) ("E911 Scope Report and Order and Second Further Notice").

<sup>3</sup> See Scope of Enhanced 911 Requirements, 69 Fed. Reg. 6578 (2004).

emergency services”<sup>11</sup> and revisited this issue in a number of proceedings.<sup>12</sup>

4. **Enhanced 911 Scope Proceeding.** In 2002, the Commission issued a Further Notice of Proposed Rulemaking (“*E911 Scope NPRM*”) that recognized the need to inquire about the scope of the obligation to provide access to 911 and enhanced 911 services.<sup>13</sup> The *E911 Scope NPRM* sought comment on whether providers of new and emerging services (such as telematics and multi-line telephone systems (“MLTS”)) that are not currently required to provide enhanced 911 service should be required to do so. The *E911 Scope NPRM* also sought comment on whether mobile satellite services should have an obligation to provide 911 service and if so how that obligation should be fulfilled.<sup>14</sup>

5. In a Report and Order and Second Further Notice of Proposed Rulemaking released in 2003 (“*E911 Scope Report and Order*” and “*E911 Scope Second Further Notice*”), we specifically addressed the obligation of mobile satellite services, telematics services, multi-line telephone systems, resold and pre-paid service, and disposable phones to provide enhanced 911 capabilities.<sup>15</sup> Among other things, we concluded that MSS carriers providing real-time, two-way, switched voice service that is interconnected with the public switched network must establish call centers to which all subscriber emergency calls are routed and then forwarded to an appropriate PSAP.<sup>16</sup> The current inability of satellite carriers to provide

<sup>11</sup> *Wireless E911 First Recon Order*, 12 FCC Rcd at 22707, para. 88.

<sup>12</sup> See Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements; Petition of the National Telecommunications and Information Administration to Amend Part 25 of the Commission’s Rules to Establish Emissions Limits for Mobile and Portable Earth Stations Operating in the 1610-1660.5 MHz Band, *Notice of Proposed Rulemaking*, 14 FCC Rcd 5871 (1999), at para. 98 (1999) (“*GMPCS NPRM*”) (seeking comment as to whether, in light of recent technological developments, the Commission should require MSS carriers to implement 911 features, subject to transitional measures to avert adverse impact on systems already in operation or at an advanced stage of development); Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, IB Docket No. 99-81, *Report and Order*, 15 FCC Rcd 16127, 16185, para. 125 (2000) (“*2 GHz Report and Order*”) (deciding to address issues concerning 911 requirements for 2 GHz MSS in the more general 911 inquiry conducted in the *GMPCS* proceeding); International Bureau Invites Further Comment Regarding Adoption of 911 Requirements for Satellite Services, IB Docket No. 99-67, *Public Notice*, 16 FCC Rcd 3780 (2000) (*Satellite 911 Public Notice*); Ex Parte Meeting in IB Docket No. 99-67, Memorandum from Arthur Lechtman, Satellite and Radiocommunication Division, International Bureau, Federal Communications Commission to William F. Caton, Acting Secretary, February 22, 2002 (“*Feb. 22 Ex Parte Memo*”) (summarizing an informal meeting held between Bureau staff and several satellite licensees regarding currently used emergency call procedures).

<sup>13</sup> See Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, IB Docket No. 99-67, *Further Notice of Proposed Rulemaking*, 17 FCC Rcd 25576 at 25601, paras. 61-63 (2002) (“*E911 Scope NPRM*”).

<sup>14</sup> See generally, *E911 Scope NPRM*, 17 FCC Rcd at 25582-99, paras. 17-56.

<sup>15</sup> Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, IB Docket No. 99-67, *Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 25340 (2003) (“*E911 Scope Report and Order and Second Further Notice*”).

<sup>16</sup> *E911 Scope Report and Order*, 18 FCC Rcd at 25350, para. 24. Any mobile satellite service that utilizes terrestrial temporary fixed earth station terminals is exempt from MSS 911 requirements. *Id.* at para. 28. In addition, MSS carriers will be exempt from complying with MSS 911 requirements for any maritime or aeronautical service provided by the MSS carrier. The Commission has previously excluded maritime and aeronautical services from the terrestrial wireless 911 rules, despite the fact that they are two-way switched voice services, because passengers and crews of ships at sea rely on Global Maritime Distress and Safety System (“GMDSS”) for emergency and distress, while passengers and crews of airplanes use other radiocommunication channels for emergency assistance. *Id.* at para. 27. The Commission concluded that it did not need to overlay a 911 emergency system over other forms of emergency service in use by maritime and aeronautical MSS users. *Id.*

defined by the FCC, requested by the MLTS operator.”<sup>25</sup> This Second Report and Order focuses on only the MSS call center reporting and recordkeeping proposals raised in the *E911 Scope Second Further Notice*. The MLTS and MSS ATC issues will be addressed separately in future proceedings.<sup>26</sup>

### III. DISCUSSION

#### A. Pre-implementation Status Reports

9. Background. We noted in the *E911 Scope Second Further Notice* that since the call center rule requires MSS carriers to deploy call centers 12 months after Federal Register publication, advance planning would be essential to meeting this deadline (i.e., February 11, 2005). Delays in carrier planning for call center implementation could, in turn, complicate the planning of other necessary participants in call center planning – PSAPs, providers of PSAP databases, local exchange carriers, and others. Timely planning and communication among the parties involved with call centers could be critical for successful deployment of this capability. For similar reasons, the Commission required terrestrial wireless carriers to submit reports on their plans for implementing Phase II E911.<sup>27</sup> We sought comment whether MSS carriers subject to the call center requirement should prepare and submit a report on their plans for implementing call centers no later than three (3) months prior to the call center rule’s effective date. The report would have to include basic information concerning the carrier’s call center plans, including staffing and site considerations and the PSAP database to be used. The Commission expected that the reports would assist our efforts to monitor call center development and take any necessary actions to ensure that the implementation deadline is met. The reports would also provide the public with valuable information about MSS emergency services. While five of the nine comments we received in response to the *E911 Scope Second Further Notice* addressed the MSS reporting and recordkeeping proposals, none of the eight reply comments addressed these issues.<sup>28</sup>

10. Discussion. We will require MSS carriers to file pre-implementation status reports concerning their respective plans to deploy emergency call centers.<sup>29</sup> We conclude that this requirement will encourage carrier planning efforts (particularly those carriers that do not already provide emergency call centers) and discussions with other necessary participants in the public safety community. Globalstar is the only commenter that opposes filing a pre-implementation report, arguing that call center issues are non-technical (e.g., personnel hiring and training) and “are generally not the subject of the Commission’s regulatory oversight.”<sup>30</sup> Instead, Globalstar recommends that in lieu of the pre-implementation report, the Commission should obtain a certification of compliance with the call center requirements 30 days after its

<sup>25</sup> *E911 Scope Second Further Notice*, 18 FCC Rcd at 25386-87, paras. 114-17.

<sup>26</sup> The parties filing comments and replies in response to the *E911 Scope Second Further Notice* are listed in Appendix B.

<sup>27</sup> *Wireless E911 Third Report and Order*, 14 FCC Rcd at 17427-28, paras. 87-89 (1999). See also 47 C.F.R. § 20.18(i).

<sup>28</sup> Intrado, Inc. (“Intrado”) filed its comments on April 28, 2004, a date past both the comment deadline of March 29, 2004 and the reply comment deadline of April 26, 2004. Although the Commission does not routinely accept late-filed comments (see 47 C.F.R. § 1.46), we find that accepting Intrado’s comments will not prejudice any party to this proceeding. Therefore, on our own motion, we accept Intrado’s late-filed comments with respect to reporting requirements for MSS call centers. We will decide whether to accept Intrado’s late-filed comments regarding other issues (including MLTS) in separate proceedings.

<sup>29</sup> Those carriers (such as Globalstar and MSV) that had call centers prior to adoption of Section 25.284 must still submit a pre-implementation report.

<sup>30</sup> Globalstar comments at 5.

sunset provisions for any recordkeeping or reporting requirements, and requested information about appropriate sunset timeframes.

13. Discussion. We believe that collection of call center data will benefit the public interest.<sup>36</sup> NENA/NASNA is interested in reviewing “how many and how well calls are forwarded to PSAPs.”<sup>37</sup> NENA/NASNA wants to track the proportion of calls requiring 911 assistance, and for this reason believes that all calls received at the call center should be recorded, both emergency and non-emergency.<sup>38</sup> In addition, Intrado asserts that the reporting will allow the Commission to “truly monitor the development and growth of MSS, the volume of emergency calls generated by MSS services, the associated public safety implications, and the need to migrate to automated delivery of such calls to PSAPs.”<sup>39</sup> We agree, and will require that MSS carriers keep track of all calls received at their emergency call centers.<sup>40</sup> MSS carriers must also identify which calls required forwarding to a PSAP and which did not.<sup>41</sup> As we stated in the *E911 Scope Second Further Notice*, we believe that this data will be useful in assisting the Commission in monitoring compliance with the call center requirement as well as determining whether modification to the requirement is warranted. As suggested by NENA/NASNA, we will not require carriers to supply customer-specific information with these reports.<sup>42</sup> Instead, carriers may submit the information in aggregate form. These reports must be filed once per year by each MSS carrier subject to the call center rule. In order to reduce the burden on carriers, the call center report will be due on the same day that MSS licensees must file their annual reports pursuant to Section 25.143.<sup>43</sup>

<sup>36</sup> See APCO comments at 2, Intrado comments at 6, NENA/NASNA comments at 4.

<sup>37</sup> NENA/NASNA comments at 4.

<sup>38</sup> NENA/NASNA comments at 4.

<sup>39</sup> Comments of Intrado at 6.

<sup>40</sup> The Commission does not require a similar call tracking requirement for other wireless carriers. The number of 911 calls currently received by MSS carriers is significantly lower than that received by terrestrial wireless carriers. (See note 46 *infra*.) In addition, the different nature of the 911 requirements and technological nature of the different services provides for a different approach in reporting requirements. Cellular and PCS providers are required to use technological solutions to automatically route 911 calls to the proper emergency personnel. Under the call center rule, MSS carriers must rely on staff at a call center to route the 911 call. The reporting requirement on the number of calls received will assist us in monitoring a number of issues, including whether MSS carriers are complying with the call center rule, whether call centers are capable of handling 911 call traffic, and whether network enhancements would be necessary to improve the transfer of emergency calls from the call center to PSAPs. In addition, any MSS carriers that begin operation after February 11, 2005 would not be subject to a pre-implementation report; rather, they would need to comply with the call center requirement when operations begin (to the extent that two-way interconnected voice service is provided, consistent with our MSS call center policies). The post-implementation call center data reports would provide the only records on file at the Commission concerning those carriers' emergency call centers.

<sup>41</sup> Our initial proposal included reporting “the success rate in handing off calls to the proper PSAP.” *E911 Scope Second Further Notice* at para. 112. Globalstar asks what “appropriate PSAP” means in this context (e.g., the closest PSAP to the caller, any PSAP in the same state, or the PSAP can actually resolve the emergency). Globalstar comments at 6. Our intention is that the proper or appropriate PSAP would be the one that could resolve the caller's emergency. However, by requiring the recording of all calls, including those that were and were not forwarded to a PSAP, we eliminate any confusion that might arise on the carrier's part in reporting whether the call center forwarded the call to the proper or appropriate PSAP. We also recognize, as Globalstar points out, that resolving emergencies of callers located in remote areas may require contacting more than one PSAP. See Globalstar comments at 6.

<sup>42</sup> NENA/NASNA comments at 4.

<sup>43</sup> See 47 C.F.R. § 25.143(e). Operators of 1.6/2.4 GHz MSS and 2 GHz MSS systems must file reports on October 15 of each year concerning various aspects of their satellite system. Operators of MSS in other bands (e.g., L-band)

(continued....)

local emergency personnel in order to assist with the emergency response.<sup>51</sup>

16. Discussion. When we adopted the MSS call center requirement, we stated that call center operators must obtain the caller's phone number and location. We clarify now that call centers may share this information with the PSAP that receives the forwarded call. We must ensure that PSAPs can reconnect interrupted emergency calls as quickly as possible. We agree with NENA/NANSA's assertion that Section 222(d) of the Communications Act permits MSS call centers to disclose to a PSAP any customer-specific information necessary to "reconnect with the caller and proceed with the emergency response."<sup>52</sup> Moreover, MSS call centers are permitted under Section 222(g) to provide PSAPs with subscriber listed and unlisted information (including caller name and number) in order to assist in the delivery of emergency services.<sup>53</sup> Consequently, there is no need for us to determine here whether a call center meets the definition of a PSAP.

#### IV. PROCEDURAL MATTERS

##### A. Regulatory Flexibility Act

17. The Final Regulatory Flexibility Analysis for this *Second Report and Order*, as required by the Regulatory Flexibility Act of 1980, as amended, *see* 5 U.S.C. § 604, is set forth in Appendix C.

##### B. Paperwork Reduction Act

18. The actions contained herein have been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose new reporting and/or recordkeeping requirements or burdens on the public. Implementation of these reporting and/or recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the PRA, and will go into effect upon publication by Commission staff of an announcement in the Federal Register that OMB has approved the information collection.

##### C. Accessible Formats

19. To request materials in accessible formats for individuals with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0531 (voice), or 202-418-7365 (tty).

#### V. ORDERING CLAUSES

20. IT IS ORDERED, that pursuant to Sections 1, 4(i), 7, 10, 201, 202, 208, 214, 222(d)(4)(A)-(C), 222(f), 222(g), 222(h)(1)(A), 222(h)(4)-(5), 251(e)(3), 301, 303, 308, and 310 of the

<sup>51</sup> NENA/NASNA comments at n. 2.

<sup>52</sup> NENA/NASNA comments at 4. MSS that is provided to end users and that is interconnected with the public switched network is generally considered commercial mobile wireless service. *See, e.g.,* Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands, CC Docket No. 92-166, *Report and Order*, 9 FCC Rcd 5936, 6001-6002, paras. 172-74 (1994); The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, IB Docket No. 99-81, *Report and Order*, 15 FCC Rcd 16127, 16173-74, paras. 96-97 (2000).

<sup>53</sup> *See* 47 U.S.C. § 222(g). The Commission has stated that Section 222 applies to "telecommunications carriers" generally, including wireless carriers. *See* Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket 96-115, *Order on Reconsideration and Petitions for Forbearance*, 14 FCC Rcd 14409, 14419-20, para. 14 (1999).

Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 157, 160, 201, 202, 208, 214, 222(d)(4)(A)-(C), 222(f), 222(g), 222(h)(1)(A), 222(h)(4)-(5), 251(e)(3), 301, 303, 308, 310, this *Second Report and Order* is hereby ADOPTED.

21. IT IS FURTHER ORDERED that the rule changes set forth in Appendix A WILL BECOME EFFECTIVE 30 days after publication in the Federal Register, or upon approval of the information collection by the Office of Management and Budget, whichever is later.

22. IT IS FURTHER ORDERED that, pursuant to 47 U.S.C. § 155(c) and 47 C.F.R. § 0.261, the Chief of the International Bureau IS DELEGATED AUTHORITY to prescribe and set forth procedures for the implementation of the provisions adopted herein.

23. IT IS FURTHER ORDERED that the Commission's Office of Consumer and Government Affairs, Reference Information Center, SHALL SEND a copy of this *Second Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

Therefore, the first call center reports will be due on October 15, 2005.<sup>44</sup>

14. We do not believe that this reporting requirement will impose substantial burdens on carriers, contrary to Globalstar's position.<sup>45</sup> The information that we are collecting is minimal.<sup>46</sup> Consistent with the Commission's recent requirement that all Part 25-related filings be filed electronically,<sup>47</sup> we require the post-implementation report to be filed electronically. We will also make these reports available on our website, and direct the Chief, International Bureau, to issue a public notice addressing the administrative details of the electronic submissions. We received no comments on our proposal to establish a sunset provision for a post-implementation reporting requirement. We anticipate that this requirement will sunset of its own accord after we transition MSS from 911 call centers to an automated E911 system following the conclusion of NRIC VII. Until that time, the data that carriers collect will provide valuable information that will assist in monitoring usage trends and also will help public safety organizations assess call center effectiveness. Usage trends may be an indicator of the need to modify the call center rule to be more responsive to call traffic or the need to hasten the transition to automatic delivery of MSS 911 calls to PSAPs.<sup>48</sup>

### C. Other Issues

15. Background. NENA/NASNA wants to ensure that PSAPs will be able to call back an MSS customer in the event that a call center-forwarded call is interrupted. NENA/NASNA believes that the PSAPs should be able to request from the call center, pursuant to Section 222(d) of the Communications Act, "such customer-specific information as may be needed to reconnect with the caller and proceed with the emergency response."<sup>49</sup> NENA/NASNA also asks whether a call center, if it meets the statutory definition of a PSAP,<sup>50</sup> has "implied consent" from a caller to release information about that caller to

(...continued from previous page)

are subject to the annual reporting requirements contained in Section 25.210(l), which designates June 30 of each year as the reporting deadline. See 47 C.F.R. § 25.210(l).

<sup>44</sup> Those MSS carriers that have a June 30 annual reporting requirement may submit their first post-implementation call center status reports on June 30, 2006.

<sup>45</sup> Globalstar comments at 6.

<sup>46</sup> Globalstar previously indicated that it receives an average of 12 satellite 911 calls per month; MSV indicated that it received 10 emergency calls in 2002. See *E911 Scope Report and Order*, 18 FCC Rcd 25340 at 25349, n. 69. See also Globalstar comments at 6.

<sup>47</sup> Amendment of the Commission's Space Station Licensing Rules and Policies, 2000 Biennial Regulatory Review -- Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations, IB Docket Nos. 02-34 and 00-248, *Fourth Report and Order*, 19 FCC Rcd 7419 (2004). We are not requiring mandatory electronic filing for the pre-implementation reports because those reports are likely to be due prior to the effective date of the Part 25 electronic filing requirement. By contrast, we anticipate that the first post-implementation reports will be due after the Part 25 electronic filing requirement becomes effective.

<sup>48</sup> See Intrado comments (late filed) at 6.

<sup>49</sup> NENA/NASNA comments at 4. 47 U.S.C. § 222(d)(4) states that "[n]othing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents-- . . . (4) to provide call location information concerning the user of a commercial mobile service (as such term is defined in Section 332(d))--(A) to a public safety answering point. . . in order to respond to the user's call for emergency services. . . ."

<sup>50</sup> Section 222(h)(4) of the Communications Act defines a PSAP as "a facility that has been designated to receive emergency calls and route them to emergency service personnel." See 47 U.S.C. § 222(h)(4).

effective date.<sup>31</sup> However, we agree with those commenters that support a pre-implementation report.<sup>32</sup> Advance notification will inform stakeholders how MSS carriers intend to connect with PSAPs. Contrary to Globalstar's assertions, we believe that a certification of compliance would arrive too late to stimulate advance discussions with the public safety community. These discussions may be instrumental in ensuring that MSS carriers have the necessary resources to handle effectively emergency call traffic. NENA/NASNA supports the pre-implementation report proposal, but argues that the reports should be due at least six months prior to the effective of the call center rule in order to allow sufficient time to coordinate with PSAPs and 911 authorities.<sup>33</sup> Rather than have the pre-implementation report due three months prior to the effective date (as proposed), we require MSS carriers to submit these reports by October 11, 2004, four months prior to the call center rule's effective date. We believe that an October deadline will (a) give carriers sufficient time to prepare their reports and (b) allow for any public safety coordination that may be necessary prior to February 11, 2005.

11. The pre-implementation reports should include the following information: (a) carrier identification information, including the person or persons filing the report and contact information; (b) a description of the carrier's coverage area; (c) basic call center information, including location and plans for routing emergency calls to PSAPs; (d) a description of how the call center features will be communicated to customers; and (e) an indication of any problems that the carrier has experienced in organizing its call center. We anticipate that the reports will be brief due to the limited nature of the information we are seeking, and therefore the reporting requirement should not impose substantial new burdens on carriers. In order to minimize any burden, we permit the electronic filing of the reports, which will be available on the Commission's web site for ease of accessibility. Those carriers choosing to submit paper reports should submit an original and one copy to the Secretary's office to the attention of the Chief of the International Bureau at 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. We will also direct the Chief, International Bureau, to issue a public notice addressing the administrative details of the electronic submissions. Carriers may make changes in their plans after the report is filed, but to the extent that any substantial changes occur, carriers must file updates to their reports within 30 days of the adoption of any such change. We believe that the pre-implementation reports will provide valuable information for coordinating carrier plans with PSAPs and will assist our efforts to monitor implementation of the call center rule in a timely manner. If a carrier anticipates that it will not be able to meet the February 11, 2005 deadline for call center deployment, it should file a request for extension of time as early as possible in advance of the February 2005 deadline.

## **B. Post-implementation Status Reports**

12. Background. In the *E911 Scope Second Further Notice*, the Commission also sought comment on recordkeeping and reporting requirements post-call center deployment. Observing that the call center rule is the domestic MSS industry's first 911 requirement, we stated an interest in collecting data on MSS call center use, including the volume of calls that the call centers receive. We asked whether other call data would be useful as well, such as the number of calls that required forwarding to a local PSAP and the success rate in handing off calls to the proper PSAP.<sup>34</sup> We asked whether MSS carriers should record and store this information themselves, subject to inspection by the Commission at any time, or whether MSS carriers should file (at the Commission or another entity) the information in the form of a report once a year. We stated that collection of call data would allow us to monitor compliance with the call center requirement and track usage trends.<sup>35</sup> We also asked whether we should establish

<sup>31</sup> Globalstar comments at 5-6.

<sup>32</sup> See NENA/NASNA comments at 4, CTIA comments at 4, APCO comments at 2, and Intrado comments at 6.

<sup>33</sup> NENA/NASNA comments at 4.

<sup>34</sup> *E911 Scope Second Further Notice*, 18 FCC Rcd at 25385, para. 112.

<sup>35</sup> *E911 Scope Second Further Notice*, 18 FCC Rcd at 25385, para. 112.



basic 911 service<sup>17</sup> convinced us that emergency call centers are an appropriate first step for MSS carriers.<sup>18</sup> Moreover, we were encouraged that some MSS carriers had established emergency call centers voluntarily, prior to adoption of the requirement.<sup>19</sup>

6. We did not mandate any specific procedures that MSS carriers must follow in establishing and operating their call centers. Rather, we require only a few minimum functionalities, including: MSS carriers must ensure that call centers are accessed by dialing "911," call centers must ascertain the caller's phone number and location, and the call center must transfer or forward the call to an appropriate PSAP. We recognized that the integrity of a call center solution depends on access to an adequate PSAP database, but we concluded that MSS carriers should not be required to compile PSAP databases, since several commercial alternatives exist.<sup>20</sup> We encouraged MSS carriers to consult with entities such as the Association of Public Safety Communications Officials-International, Inc. ("APCO") and the National Emergency Number Association and National Association of State Nine One One Administrators ("NENA/NASNA") in order to train operators to answer emergency calls.

7. Since call centers can be implemented without substantial delay for technological or cost concerns, we ordered that the call center requirement become effective 12 months after publication of the *E911 Scope Report and Order* in the Federal Register.<sup>21</sup> Therefore, MSS carriers must provide 911 emergency call center service by February 11, 2005. The MSS call center requirement will remain effective until such time that an appropriate E911 implementation schedule can be determined. At the same time, we referred a number of E911 technical issues associated with MSS to the rechartered Network Reliability and Interoperability Council ("NRIC") for further study.<sup>22</sup>

8. The *E911 Scope Second Further Notice* sought comment on a number of issues pertaining to both MLTS and MSS systems. In particular, the Commission sought comment on implementation of E911 for MSS systems with an ancillary terrestrial component ("ATC"), including technical considerations for hand-off of calls between satellite and terrestrial components.<sup>23</sup> The Commission also proposed to require each MSS carrier subject to the call center rule to file a report detailing its plan to comply with the new rule and to record and report data concerning calls handled by the call center.<sup>24</sup> With regard to MLTS, we sought comment on the Commission's role in requiring multi-line systems to deliver call-back and location information, the value of a national approach to establishing 911 procedures where states have failed to act, the Commission's jurisdiction over MLTS operators, and NENA's proposed new section to our Part 64 rules requiring that LEC central offices be provisioned to permit connection of MLTS equipment for E911 purposes "in any accepted industry standard format, as

<sup>17</sup> "Basic 911 service" in the terrestrial wireless context is the automatic transmission of all wireless 911 calls, without respect to call validation processes, to a PSAP, or where no PSAP has been designated, to a statewide default answering point or appropriate local emergency authority. See 47 C.F.R. § 20.18(b).

<sup>18</sup> See *E911 Scope Report and Order*, 18 FCC Rcd at 25349, para. 24.

<sup>19</sup> See *E911 Scope Report and Order*, 18 FCC Rcd at 25348, para. 21. Globalstar and Mobile Satellite Ventures Subsidiary LLC ("MSV") had established emergency call centers prior to adoption of Section 25.284, which requires MSS carriers to establish emergency call centers.

<sup>20</sup> *Id.* at paras. 31-32.

<sup>21</sup> *Id.* at para. 24. Federal Register publication occurred on February 11, 2004 (see *Scope of Enhanced 911 Requirements*, 69 Fed. Reg. 6578 (2004)).

<sup>22</sup> See *E911 Scope Report and Order*, 18 FCC Rcd at 25355-57, paras. 37-39. The rechartered NRIC is known as NRIC VII.

<sup>23</sup> *E911 Scope Second Further Notice*, 18 FCC Rcd at 25383-85, paras. 108-10.

<sup>24</sup> *E911 Scope Second Further Notice*, 18 FCC Rcd at 25385, paras. 111-12.

## II. BACKGROUND

2. As many citizens, elected representatives, and public safety personnel recognize, 911 service is critical to our Nation's ability to respond to a host of crises. Efforts by federal, state, and local government, along with the significant efforts by wireline and wireless service providers, have resulted in the nearly ubiquitous deployment of this life-saving service. While 911 service for wireline consumers has been in existence since 1965, wireless 911 service has been a requirement since 1996, when the Commission adopted an order requiring certain mobile wireless licensees to implement enhanced 911 service.<sup>4</sup> The *E911 First Report and Order* represented the culmination of efforts by the public safety community, the wireless telecommunications industry, and the Commission to improve the quality and reliability of 911 services to wireless customers nationwide. The Commission determined that cellular licensees, broadband Personal Communications Service (PCS) licensees, and certain Specialized Mobile Radio (SMR) licensees,<sup>5</sup> collectively "covered carriers," would be required to meet basic and enhanced 911 service requirements for completing emergency calls, including forwarding all 911 calls without delay<sup>6</sup> and relaying a caller's Automatic Number Identification (ANI) and Automatic Location Information (ALI) to the appropriate Public Safety Answering Point (PSAP).<sup>7</sup> In order to encourage carrier planning efforts and discussions with other stakeholders, the Commission required that all wireless carriers subject to the E911 rules submit reports detailing their plans for Phase II implementation.<sup>8</sup>

3. When the Commission adopted the Phase I and II requirements for covered carriers, it also concluded that MSS should not be required, at that time, to provide appropriate access to emergency services (neither basic nor enhanced 911), given technological impediments and the coordination of international standards.<sup>9</sup> The Commission did indicate that it would consider adopting requirements at a later time for MSS, and urged MSS carriers to continue to cooperate with public safety agencies in the development of mutually acceptable means of accessing emergency services.<sup>10</sup> The Commission, however, noted that it expected that MSS carriers would eventually need to "provide appropriate access to

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<sup>4</sup> See Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 18676 (1996) ("*E911 First Report and Order*").

<sup>5</sup> The Commission's E911 requirements covered only certain SMR licensees that held either licenses or authorizations to operate 800 MHz or 900 MHz service. *E911 First Report and Order*, 11 FCC Rcd at 18716-18, paras. 80-84. "Covered SMR" also included those 800/900 MHz SMR licensees that offered real-time, two-way switched voice service that was interconnected with the public switched network, either on a stand-alone basis or packaged with other telecommunications services. *Id.*

<sup>6</sup> See *E911 First Report and Order*, 11 FCC Rcd at 18692-97, paras. 29-42 (requiring covered carriers to transmit all 911 calls without subjecting them to any call validation procedures).

<sup>7</sup> *E911 First Report and Order*, 11 FCC Rcd at 18689-18722, paras. 24-91.

<sup>8</sup> Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Third Report and Order*, 14 FCC Rcd 17388 at 17427, para. 87 (1999) ("*Wireless E911 Third Report and Order*"). Recognizing the challenges of implementation of E911 requirements, the Commission adopted a phased implementation plan for the covered carriers. Phase I implementation, which requires a covered carrier to transmit a 911 caller's call-back number and cell site to the appropriate PSAP, began on April 1, 1998. See 47 C.F.R. § 20.18(d). Phase II implementation, which requires a covered carrier to transmit a 911 caller's location information to the appropriate PSAP, began on October 1, 2001. See 47 C.F.R. § 20.18 (e), (h).

<sup>9</sup> See *E911 First Report and Order*, 11 FCC Rcd at 18718, para. 83.

<sup>10</sup> *Id.* See also Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Memorandum Opinion and Order*, 12 FCC Rcd 22665, 22707 at para. 88 (1997) ("*Wireless E911 First Recon Order*").

**APPENDIX A****FINAL RULES**

**Part 25 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:**

1. Redesignate § 25.284 as § 25.284(a), and add new paragraph (b), to read as follows:

§25.284 Emergency Call Center Service.

(a) \* \* \*

(b) Beginning February 11, 2005, each mobile satellite service carrier that is subject to the provisions of subsection (a) must maintain records of all 911 calls received at its emergency call center. Beginning October 15, 2005, and on each following October 15, mobile satellite service carriers providing service in the 1.6/2.4 GHz and 2 GHz bands must submit a report to the Commission regarding their call center data, current as of September 30 of that year. Beginning June 30, 2006, and on each following June 30, mobile satellite service carriers providing service in bands other than 1.6/2.4 GHz and 2 GHz must submit a report to the Commission regarding their call center data, current as of May 31 of that year. These reports must include, at a minimum, the following:

- (1) The name and address of the carrier, the address of the carrier's emergency call center, and emergency call center contact information;
- (2) The aggregate number of calls received by the call center each month during the relevant reporting period;
- (3) An indication of how many calls received by the call center each month during the relevant reporting period required forwarding to a public safety answering point and how many did not require forwarding to a public safety answering point.

**APPENDIX B****Parties Filing Comments  
(9 Commenters)**

<u>Name of Party</u>	<u>Abbreviation</u>
Ad Hoc Telecommunications Users Committee	Ad Hoc Users Committee
Association of Public Safety Communications Officials – International, Inc.	APCO
Cellular Telecommunications and Internet Association	CTIA
Intrado Inc. (late-filed)	Intrado
Globalstar USA, L.L.C. and Globalstar, L.P.	Globalstar
National Emergency Number Association and National Association of State Nine One One Administrators (joint filed)	NENA/NASNA
National Telecommunications Cooperative Association	NTCA
Telecommunications Industry Association	TIA
Verizon	

**Parties Filing Reply Comments  
(8 Reply Commenters)**

<u>Name of Party</u>	<u>Abbreviation</u>
Association for Communications Technology Professionals in Higher Education	ACUTA
Ad Hoc Telecommunications Users Committee	Ad Hoc Users Committee
Association of Public Safety Communications Officials – International, Inc.	APCO
Jane Chong	
Michael Allen	
National Emergency Number Association and National Association of State Nine One One Administrators (joint filed)	NENA/NASNA
NEC America, Inc.	NEC
Verizon	

**APPENDIX C**  
**FINAL REGULATORY FLEXIBILITY ANALYSIS**  
**Second Report and Order**  
**CC Docket No. 94-102**  
**IB Docket No. 99-67**

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>54</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems Second Further Notice of Proposed Rulemaking (*Notice*).<sup>55</sup> The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) for the *Second Report and Order*<sup>56</sup> conforms to the RFA.<sup>57</sup>

**A. Need for, and Objectives of, the Proposed Rules**

2. The *Second Report and Order* issues new reporting and recordkeeping rules in connection with the implementation of the mobile satellite service (MSS) emergency call center rule, 47 C.F.R. § 25.284, that was initiated with the *Second Further Notice of Proposed Rulemaking*, CC Docket No. 94-102 and IB Docket No. 99-67.<sup>58</sup> The *Second Report and Order* requires MSS carriers subject to the call center rule to file a report with the Commission that indicates the carrier's plans for establishing its emergency call center. This report will ensure that MSS carriers deploy their emergency call centers by February 11, 2005, in a timely manner and that all stakeholders (including the Commission, service providers, public safety organizations, and customers) are informed during the implementation and operation of these centers. The *Second Report and Order* also requires MSS carriers subject to the call center rule to file annual reports regarding contact information and call traffic data, including the aggregate number of calls received on a monthly basis and the number of those calls that required transferring to a public safety answering point (PSAP). The Commission takes this action in recognition of Congress' directive to "facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation's public safety and other communications needs."<sup>59</sup> In addition, the Commission takes this action to ensure consumers' expectations regarding access to 911 service are met, to strengthen Americans' ability to access public safety. It has balanced those goals against the needs of entities offering these services to be able to compete in a competitive marketplace.

**B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

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<sup>54</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-612., has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996) (CWAA).

<sup>55</sup> See Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, *Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 25340, 25401, Appendix D (2003) (*Notice*).

<sup>56</sup> Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, *Second Report and Order*, FCC 04-201 (2004) (*Second Report and Order*).

<sup>57</sup> See 5 U.S.C. § 604.

<sup>58</sup> See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, IB Docket No. 99-67, *Further Notice of Proposed Rulemaking*, 17 FCC Rcd 25576 (2002).

<sup>59</sup> See *Wireless Communications and Public Safety Act of 1999*, Pub. L. No. 106-81, 113 Stat. 1286 (codified at 47 USC §§ 222, 251(e)) (*Wireless Communications and Public Safety Act of 1999*). See 47 USC § 615 note.

Consequently, the Commission estimates that the majority of providers of competitive local exchange service are small entities that may be affected by the rules.

7. **Competitive Access Providers.** Neither the Commission nor the SBA has developed a specific size standard for competitive access providers (CAPS). The closest applicable standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees.<sup>71</sup> According to the FCC's *Telephone Trends Report* data, 609 CAPs or competitive local exchange carriers and 35 other local exchange carriers reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services.<sup>72</sup> Of these 609 competitive access providers and competitive local exchange carriers, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees.<sup>73</sup> Of the 35 other local exchange carriers, an estimated 34 have 1,500 or fewer employees and one has more than 1,500 employees.<sup>74</sup> Consequently, the Commission estimates that the majority of small entity CAPS and the majority of other local exchange carriers may be affected by the rules.

8. **Local Resellers.** The SBA has developed a specific size standard for small businesses within the category of Telecommunications Resellers. Under that standard, such a business is small if it has 1,500 or fewer employees.<sup>75</sup> According to the FCC's *Telephone Trends Report* data, 133 companies reported that they were engaged in the provision of local resale services.<sup>76</sup> Of these 133 companies, an estimated 127 have 1,500 or fewer employees and 6 have more than 1,500 employees.<sup>77</sup> Consequently, the Commission estimates that the majority of local resellers may be affected by the rules.

9. **Toll Resellers.** The SBA has developed a specific size standard for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees.<sup>78</sup> According to the FCC's *Telephone Trends Report* data, 625 companies reported that they were engaged in the provision of toll resale services.<sup>79</sup> Of these 625 companies, an estimated 590 have 1,500 or fewer employees and 35 have more than 1,500 employees.<sup>80</sup> Consequently, the Commission estimates that a majority of toll resellers may be affected by the rules.

10. **Interexchange Carriers.** Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to providers of interexchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees.<sup>81</sup> According to the FCC's *Telephone Trends Report* data, 261 carriers reported that their primary telecommunications service activity was the

<sup>71</sup> 13 C.F.R. § 121.201, NAICS code 513310.

<sup>72</sup> *Telephone Trends Report*, Table 5.3.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> 13 C.F.R. § 121.201, NAICS code 513330.

<sup>76</sup> *Telephone Trends Report*, Table 5.3.

<sup>77</sup> *Id.*

<sup>78</sup> 13 C.F.R. § 121.201, NAICS code 513330.

<sup>79</sup> FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, page 5-5 (Aug. 2003). This source uses data that are current as of December 31, 2001 (*Telephone Trends Report*).

<sup>80</sup> *Id.*

<sup>81</sup> 13 C.F.R. § 121.201, NAICS code 513310.

entities. We anticipate issuing several licenses for 2 GHz mobile earth stations that would be subject to the requirements we are adopting here. We do not know how many of those licenses will be held by small entities, however, as we do not yet know exactly how many 2 GHz mobile-earth-station licenses will be issued or who will receive them.<sup>92</sup> The Commission notes that small businesses are not likely to have the financial ability to become MSS system operators because of high implementation costs, including construction of satellite space stations and rocket launch, associated with satellite systems and services.

**14. Other Toll Carriers.** Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to "Other Toll Carriers." This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees.<sup>93</sup> According to the FCC's *Telephone Trends Report* data, 92 carriers reported that they were engaged in the provision of "Other Toll Services."<sup>94</sup> Of these 92 carriers, an estimated 82 have 1,500 or fewer employees and ten have more than 1,500 employees.<sup>95</sup> Consequently, the Commission estimates that a majority of "Other Toll Carriers" may be affected by the rules.

**15. Wireless Service Providers.** The SBA has developed a size standard for small wireless businesses within the two separate categories of Cellular and Other Wireless Telecommunications and Paging. Under these standards, such a business is small if it has 1,500 or fewer employees.<sup>96</sup> According to the FCC's *Telephone Trends Report* data, 1,387 companies reported that they were engaged in the provision of wireless service.<sup>97</sup> Of these 1,387 companies, an estimated 945 have 1,500 or fewer employees and 442 have more than 1,500 employees. Consequently, we estimate that a majority of wireless service providers may be affected by the rules.

**D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.**

16. Paragraphs 10-14 of the *Second Report and Order* require that all MSS licensees subject to the emergency call center requirement both (a) submit implementation progress reports prior to the effective date of the call center requirement and (b) record data on call center operations for annual reporting purposes. *See also* Section E, *infra*.

**E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

(...continued from previous page)

[http://www.bce.ca/en/investors/reports/annual/bce/2002annual/bce\\_ar02\\_04\\_e.html](http://www.bce.ca/en/investors/reports/annual/bce/2002annual/bce_ar02_04_e.html), that it received \$19.8 billion of revenue in 2002.

<sup>92</sup> There are currently four space-station authorizations for Mobile Satellite Service systems that would operate with 2 GHz mobile earth stations. Although we know the number and identity of the space-station operators, neither the number nor the identity of future 2 GHz mobile-earth-station licensees can be determined from that data.

<sup>93</sup> 13 C.F.R. § 121.201, NAICS code 513310.

<sup>94</sup> *Telephone Trends Report*, Table 5.3.

<sup>95</sup> *Id.*

<sup>96</sup> 13 C.F.R. § 121.201, NAICS code 513322.

<sup>97</sup> *Telephone Trends Report*, Table 5.3.

17. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>98</sup>

18. The critical nature of the 911 and E911 proceedings limit the Commission's ability to provide small carriers with a less burdensome set of E911 regulations than that placed on large entities. A delayed or less than adequate response to an E911 call can be disastrous regardless of whether a small carrier or a large carrier is involved. Prior to adoption of the call center rule (47 C.F.R. § 25.284), MSS carriers had been exempt from the Commission's 911 and E911 regulations.

19. As mentioned, the *Second Report and Order* sets forth reporting and recordkeeping requirements in connection with implementation of the MSS emergency call center requirement. The first reporting requirement is a one-time filing that MSS carriers (those subject to the call center rule) must submit, electronically, prior to the effective date of the call center rule. This report would provide the Commission, the public, and the public safety community with valuable information concerning the carrier's plans to establish an emergency call center. Call center 911 service is a new form of 911 service, and the *Second Report and Order* also requires collection of call center data, including the number of calls received during a given period and the number of calls requiring forwarding to a public safety answering point (PSAP). To minimize burdens on MSS carriers, including small entities, the *Second Report and Order* requires that the annual call center data reports be filed electronically and that the deadline for submission be consistent with the deadline for satellite operators' annual satellite reports.<sup>99</sup>

By tailoring its rules in this manner, the Commission seeks to fulfill its obligation of ensuring "a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation's public safety and other communications needs."<sup>100</sup>

#### **F. Report to Congress**

21. The Commission will send a copy of the *Second Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.<sup>101</sup> In addition, the Commission will send a copy of the *Second Report and Order*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Second Report and Order* and FRFA (or summaries thereof) will also be published in the Federal Register. See 5 U.S.C. § 604(b).

<sup>98</sup> See 5 U.S.C. § 603.

<sup>99</sup> The requirements for MSS satellite licensee annual reports are contained in 47 C.F.R. §§ 25.143(e), 25.210(l).

<sup>100</sup> *Id.*

<sup>101</sup> See 5 U.S.C. § 801(a)(1)(A)



provision of interexchange services.<sup>82</sup> Of these 261 carriers, an estimated 223 have 1,500 or fewer employees and 38 have more than 1,500 employees.<sup>83</sup> Consequently, we estimate that a majority of interexchange carriers may be affected by the rules.

**11. Operator Service Providers.** Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to operator service providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees.<sup>84</sup> According to the FCC's *Telephone Trends Report* data, 23 companies reported that they were engaged in the provision of operator services.<sup>85</sup> Of these 23 companies, an estimated 22 have 1,500 or fewer employees and one has more than 1,500 employees.<sup>86</sup> Consequently, the Commission estimates that a majority of local resellers may be affected by the rules.

**12. Prepaid Calling Card Providers.** The SBA has developed a size standard for small businesses within the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>87</sup> According to the FCC's *Telephone Trends Report* data, 37 companies reported that they were engaged in the provision of prepaid calling cards.<sup>88</sup> Of these 37 companies, an estimated 36 have 1,500 or fewer employees and one has more than 1,500 employees.<sup>89</sup> Consequently, the Commission estimates that a majority of prepaid calling providers may be affected by the rules.

**13. Mobile Satellite Service Carriers.** Neither the Commission nor the U.S. Small Business Administration has developed a small business size standard specifically for mobile satellite service licensees. The appropriate size standard is therefore the SBA standard for Satellite Telecommunications, which provides that such entities are small if they have \$12.5 million or less in annual revenues.<sup>90</sup> Currently, nearly a dozen entities are authorized to provide voice MSS in the United States. We have ascertained from published data that four of those companies are not small entities according to the SBA's definition,<sup>91</sup> but we do not have sufficient information to determine which, if any, of the others are small

<sup>82</sup> *Telephone Trends Report*, Table 5.3.

<sup>83</sup> *Id.*

<sup>84</sup> 13 C.F.R. § 121.201, NAICS code 513310.

<sup>85</sup> *Telephone Trends Report*, Table 5.3.

<sup>86</sup> *Id.*

<sup>87</sup> 13 C.F.R. § 121.201, NAICS code 513330.

<sup>88</sup> *Telephone Trends Report*, Table 5.3.

<sup>89</sup> *Id.*

<sup>90</sup> 13 C.F.R. § 121.201, North American Industry Classification System ("NAICS") code 51740, formerly NAICS code 513340.

<sup>91</sup> Comsat Corporation, Globalstar USA, Honeywell International, Inc., and Mobile Satellite Ventures Subsidiary LLC ("MSVS") each holds one of the current licenses for 1.6 GHz mobile satellite stations. Comsat Corporation reported annual revenue of \$618 million in its most recent annual report to the U.S. Securities and Exchange Commission ("SEC"). Globalstar USA (formerly AirTouch Satellite Services) is indirectly majority-owned by Thermo Satellite LP, a Colorado limited partnership. (See International Authorizations Granted, *Public Notice*, 19 FCC Rcd 4079 (2004)). In another annual report filed with the SEC, Honeywell International Inc. reported receiving sales revenue of \$23.7 billion in 2001. MSVS is wholly owned by a limited partnership that is 48.1% owned by Motient Corporation and 39.9% owned by a limited partnership controlled by a wholly-owned subsidiary of BCE, Inc. In an annual report filed with the SEC, Motient reported revenue of \$93.3 billion for calendar year 2001. BCE, Inc. reports in its corporate website,

(continued....)

3. We received no comments directly in response to the IRFA in this proceeding.

**C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply**

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the adopted rules, if adopted.<sup>60</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>61</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act.<sup>62</sup> Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>63</sup> A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."<sup>64</sup>

5. **Incumbent Local Exchange Carriers.** Neither the Commission nor the SBA has developed a specific small business size standard for providers of incumbent local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees.<sup>65</sup> According to the FCC's *Telephone Trends Report* data, 1,337 incumbent local exchange carriers reported that they were engaged in the provision of local exchange services.<sup>66</sup> Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees.<sup>67</sup> Consequently, we estimate that the majority of providers of local exchange service are small entities that may be affected by the rules and policies adopted herein.

6. **Competitive Local Exchange Carriers.** Neither the Commission nor the SBA has developed a specific small business size standard for providers of competitive local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees.<sup>68</sup> According to the FCC's *Telephone Trends Report* data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services.<sup>69</sup> Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees.<sup>70</sup>

<sup>60</sup> See 5 U.S.C. § 603(b)(3).

<sup>61</sup> 5 U.S.C. § 601(6).

<sup>62</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definitions(s) in the Federal Register."

<sup>63</sup> 15 U.S.C. § 632.

<sup>64</sup> *Id.* § 601(4).

<sup>65</sup> 13 C.F.R. § 121.201, NAICS code 513310.

<sup>66</sup> FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, *Trends in Telephone Service*, at Table 5.3, page 5-5 (August 2003) (*Telephone Trends Report*).

<sup>67</sup> *Id.*

<sup>68</sup> 13 C.F.R. § 121.201, NAICS code 513310.

<sup>69</sup> *Telephone Trends Report*, Table 5.3.

<sup>70</sup> *Id.*